

**Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-0115.01 Thomas Morris x4218

**SENATE BILL 18-109**

---

**SENATE SPONSORSHIP**

**Gardner**, Guzman, Neville T., Sonnenberg, Williams A.

**HOUSE SPONSORSHIP**

**Garnett and Wist**, Hooton, Melton, Michaelson Jenet, Pabon, Rosenthal

---

**Senate Committees**

Business, Labor, & Technology  
Finance

**House Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING AN AUTHORIZATION FOR NOTARIES PUBLIC TO PERFORM**  
102 **NOTARIAL ACTS USING AUDIO-VIDEO COMMUNICATION.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Current law requires an individual who wishes to have a document notarized to appear personally before the notary public. The bill authorizes notaries public to perform a notarial act on behalf of an individual who is not in the notary's physical presence, but only with respect to an electronic document.

To perform a "remote notarization", a notary must use a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

tamper-evident electronic system that conforms to standards established by rules of the secretary of state, including using real-time audio-video communications and keeping an audio-video recording of the notarization for at least 10 years. The bill establishes the standards that a notary must comply with to have satisfactory evidence of the identity of the person seeking the remote notarization. A notary is prohibited from using information collected during a remote notarization other than as allowed by applicable federal or state law.

---

1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, 24-21-502 **as it will**  
3 **become effective July 1, 2018, add** (1.5), (10.5), (11.5), and (15.5) as  
4 follows:

5           **24-21-502. Definitions.** In this part 5:

6           (1.5) "CREDENTIAL" MEANS A TANGIBLE RECORD EVIDENCING THE  
7 IDENTITY OF AN INDIVIDUAL.

8           (10.5) "REAL-TIME" OR "IN REAL TIME" MEANS, WITH RESPECT TO  
9 AN INTERACTION BETWEEN INDIVIDUALS BY MEANS OF AUDIO-VIDEO  
10 COMMUNICATIONS, THAT THE INDIVIDUALS CAN SEE AND HEAR EACH  
11 OTHER SUBSTANTIALLY SIMULTANEOUSLY AND WITHOUT INTERRUPTION  
12 OR DISCONNECTION. DELAYS OF A FEW SECONDS THAT ARE INHERENT IN  
13 THE METHOD OF COMMUNICATION DO NOT PREVENT THE INTERACTION  
14 FROM BEING CONSIDERED TO HAVE OCCURRED IN REAL TIME.

15           (11.5) "REMOTE NOTARIZATION" MEANS AN ELECTRONIC  
16 NOTARIAL ACT PERFORMED WITH RESPECT ONLY TO AN ELECTRONIC  
17 RECORD BY MEANS OF REAL-TIME AUDIO-VIDEO COMMUNICATION IN  
18 ACCORDANCE WITH SECTION 24-21-514.5 AND RULES ADOPTED BY THE  
19 SECRETARY OF STATE.

20           (15.5) "TAMPER-EVIDENT" MEANS THE USE OF A SET OF  
21 APPLICATIONS, PROGRAMS, HARDWARE, SOFTWARE, OR OTHER

1 TECHNOLOGIES THAT WILL DISPLAY EVIDENCE OF ANY CHANGES MADE TO  
2 AN ELECTRONIC RECORD.

3 **SECTION 2.** In Colorado Revised Statutes, **amend as it will**  
4 **become effective July 1, 2018,** 24-21-506 as follows:

5 **24-21-506. Personal appearance required - definition.** (1) If  
6 a notarial act relates to a statement made in or a signature executed on a  
7 record, the individual making the statement or executing the signature  
8 shall appear personally before the notarial officer.

9 (2) FOR PURPOSES OF THIS SECTION, "APPEAR PERSONALLY"  
10 MEANS:

11 (a) BEING IN THE SAME PHYSICAL LOCATION AS ANOTHER  
12 INDIVIDUAL AND CLOSE ENOUGH TO SEE, HEAR, COMMUNICATE WITH, AND  
13 EXCHANGE TANGIBLE IDENTIFICATION CREDENTIALS WITH THAT  
14 INDIVIDUAL; OR

15 (b) INTERACTING WITH ANOTHER INDIVIDUAL BY MEANS OF  
16 REAL-TIME AUDIO-VIDEO COMMUNICATION IN COMPLIANCE WITH SECTION  
17 24-21-514.5 AND RULES ADOPTED BY THE SECRETARY OF STATE.

18 **SECTION 3.** In Colorado Revised Statutes, **add** 24-21-514.5 as  
19 follows:

20 **24-21-514.5. Audio-video communication - definitions.** (1) AS  
21 USED IN THIS SECTION:

22 (a) "AUDIO-VIDEO COMMUNICATION" MEANS COMMUNICATION BY  
23 WHICH AN INDIVIDUAL IS ABLE TO SEE, HEAR, AND COMMUNICATE WITH  
24 ANOTHER INDIVIDUAL IN REAL TIME USING ELECTRONIC MEANS.

25 (b) "CREDENTIAL ANALYSIS" MEANS A PROCESS OR SERVICE THAT  
26 COMPLIES WITH ANY RULES ADOPTED BY THE SECRETARY OF STATE  
27 THROUGH WHICH A THIRD PARTY AFFIRMS THE VALIDITY OF A

1 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THROUGH THE REVIEW  
2 OF PUBLIC OR PROPRIETARY DATA SOURCES.

3 (c) "DYNAMIC, KNOWLEDGE-BASED AUTHENTICATION  
4 ASSESSMENT" MEANS AN IDENTITY ASSESSMENT THAT IS BASED ON A SET  
5 OF QUESTIONS FORMULATED FROM PUBLIC OR PRIVATE DATA SOURCES FOR  
6 WHICH THE INDIVIDUAL TAKING THE ASSESSMENT HAS NOT PREVIOUSLY  
7 PROVIDED AN ANSWER AND THAT MEETS ANY RULES ADOPTED BY THE  
8 SECRETARY OF STATE.

9 (d) "OUTSIDE THE UNITED STATES" MEANS A LOCATION OUTSIDE  
10 THE GEOGRAPHIC BOUNDARIES OF THE UNITED STATES, PUERTO RICO, THE  
11 UNITED STATES VIRGIN ISLANDS, AND ANY TERRITORY OR INSULAR  
12 POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

13 (e) "PUBLIC KEY CERTIFICATE" MEANS AN ELECTRONIC  
14 CREDENTIAL THAT IS USED TO IDENTIFY AN INDIVIDUAL WHO SIGNED AN  
15 ELECTRONIC RECORD WITH THE CERTIFICATE.

16 (f) "REMOTE NOTARIZATION SYSTEM" MEANS ANY TECHNOLOGY  
17 THAT ENABLES A NOTARY PUBLIC TO PERFORM REMOTE NOTARIZATIONS  
18 IN COMPLIANCE WITH THIS PART 5 AND RULES ADOPTED BY THE  
19 SECRETARY OF STATE.

20 (g) "REMOTE PRESENTATION" MEANS TRANSMISSION TO THE  
21 NOTARY PUBLIC THROUGH COMMUNICATION TECHNOLOGY OF AN IMAGE  
22 OF A GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THAT IS OF  
23 SUFFICIENT QUALITY TO ENABLE THE NOTARY PUBLIC TO:

24 (I) IDENTIFY THE INDIVIDUAL SEEKING THE NOTARY PUBLIC'S  
25 SERVICES; AND

26 (II) PERFORM CREDENTIAL ANALYSIS.

27 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS

1 SECTION, A NOTARY PUBLIC MAY PERFORM A REMOTE NOTARIZATION ONLY  
2 WITH RESPECT TO AN ELECTRONIC RECORD AND IN COMPLIANCE WITH THIS  
3 SECTION AND ANY RULES ADOPTED BY THE SECRETARY OF STATE FOR AN  
4 INDIVIDUAL WHO IS LOCATED:

5 (I) IN THIS STATE;

6 (II) OUTSIDE OF THIS STATE BUT WITHIN THE UNITED STATES; OR

7 (III) OUTSIDE THE UNITED STATES IF:

8 (A) THE NOTARY PUBLIC HAS NO ACTUAL KNOWLEDGE THAT THE  
9 NOTARIAL ACT IS PROHIBITED IN THE JURISDICTION IN WHICH THE  
10 INDIVIDUAL IS PHYSICALLY LOCATED AT THE TIME OF THE ACT; AND

11 (B) THE INDIVIDUAL CONFIRMS TO THE NOTARY PUBLIC THAT THE  
12 REQUESTED NOTARIAL ACT AND THE RECORD RELATE TO: A MATTER THAT  
13 WILL BE FILED WITH OR IS CURRENTLY BEFORE A COURT, GOVERNMENTAL  
14 ENTITY, OR OTHER ENTITY IN THE UNITED STATES; PROPERTY LOCATED IN  
15 THE UNITED STATES; OR A TRANSACTION SUBSTANTIALLY CONNECTED TO  
16 THE UNITED STATES.

17 (b) A NOTARY PUBLIC SHALL NOT PERFORM A REMOTE  
18 NOTARIZATION FOR:

19 (I) A RECORD RELATING TO THE ELECTORAL PROCESS; OR

20 (II) A WILL, CODICIL, DOCUMENT PURPORTING TO BE A WILL OR  
21 CODICIL, OR ANY ACKNOWLEDGMENT REQUIRED UNDER SECTION  
22 15-11-502 OR 15-11-504.

23 (3) BEFORE A NOTARY PUBLIC PERFORMS THE NOTARY PUBLIC'S  
24 INITIAL REMOTE NOTARIZATION, THE NOTARY PUBLIC SHALL NOTIFY THE  
25 SECRETARY OF STATE THAT THE NOTARY PUBLIC WILL BE PERFORMING  
26 REMOTE NOTARIZATIONS AND SHALL IDENTIFY EACH REMOTE  
27 NOTARIZATION SYSTEM THAT THE NOTARY PUBLIC INTENDS TO USE. THE

1 REMOTE NOTARIZATION SYSTEM MUST CONFORM TO THIS PART 5 AND ANY  
2 RULES ADOPTED BY THE SECRETARY OF STATE. THE NOTICE MUST BE  
3 SUBMITTED IN THE FORMAT REQUIRED BY THE SECRETARY OF STATE AND  
4 MUST:

5 (a) INCLUDE AN AFFIRMATION THAT THE NOTARY PUBLIC HAS READ  
6 AND WILL COMPLY WITH THIS SECTION AND ALL RULES ADOPTED BY THE  
7 SECRETARY OF STATE; AND

8 (b) BE ACCOMPANIED BY PROOF THAT THE NOTARY PUBLIC HAS  
9 SUCCESSFULLY COMPLETED ANY TRAINING AND EXAMINATION REQUIRED  
10 BY THE SECRETARY OF STATE.

11 (4) A NOTARY PUBLIC WHO PERFORMS A NOTARIAL ACT FOR AN  
12 INDIVIDUAL BY MEANS OF AUDIO-VIDEO COMMUNICATION MUST:

13 (a) BE LOCATED WITHIN THIS STATE AT THE TIME THE NOTARIAL  
14 ACT IS PERFORMED;

15 (b) EXECUTE THE NOTARIAL ACT IN A SINGLE, REAL-TIME SESSION;

16 (c) CONFIRM THAT ANY RECORD THAT IS SIGNED, ACKNOWLEDGED,  
17 OR OTHERWISE PRESENTED FOR NOTARIZATION BY THE INDIVIDUAL IS THE  
18 SAME RECORD SIGNED BY THE NOTARY PUBLIC;

19 (d) CONFIRM THAT THE QUALITY OF THE AUDIO-VIDEO  
20 COMMUNICATION IS SUFFICIENT TO MAKE THE DETERMINATIONS REQUIRED  
21 FOR THE NOTARIAL ACT UNDER THIS PART 5 AND ANY OTHER LAW OF THIS  
22 STATE; AND

23 (e) IDENTIFY THE VENUE FOR THE NOTARIAL ACT AS THE  
24 JURISDICTION WITHIN THIS STATE WHERE THE NOTARY PUBLIC IS  
25 PHYSICALLY LOCATED WHILE PERFORMING THE ACT.

26 (5) A REMOTE NOTARIZATION SYSTEM USED TO PERFORM REMOTE  
27 NOTARIZATIONS MUST:

1 (a) REQUIRE THE NOTARY PUBLIC, THE INDIVIDUAL, AND ANY  
2 REQUIRED WITNESS TO ACCESS THE SYSTEM THROUGH AN  
3 AUTHENTICATION PROCEDURE THAT COMPLIES WITH RULES ADOPTED BY  
4 THE SECRETARY OF STATE REGARDING SECURITY AND ACCESS;

5 (b) ENABLE THE NOTARY PUBLIC TO VERIFY THE IDENTITY OF THE  
6 INDIVIDUAL AND ANY REQUIRED WITNESS BY MEANS OF PERSONAL  
7 KNOWLEDGE OR SATISFACTORY EVIDENCE OF IDENTITY IN COMPLIANCE  
8 WITH SUBSECTION (6) OF THIS SECTION; AND

9 (c) CONFIRM THAT THE NOTARY PUBLIC, THE INDIVIDUAL, AND  
10 ANY REQUIRED WITNESS ARE VIEWING THE SAME RECORD AND THAT ALL  
11 SIGNATURES, CHANGES, AND ATTACHMENTS TO THE RECORD ARE MADE IN  
12 REAL TIME.

13 (6) (a) A NOTARY PUBLIC SHALL DETERMINE FROM PERSONAL  
14 KNOWLEDGE OR SATISFACTORY EVIDENCE OF IDENTITY AS DESCRIBED IN  
15 SUBSECTION (6)(b) OF THIS SECTION THAT THE INDIVIDUAL APPEARING  
16 BEFORE THE NOTARY PUBLIC BY MEANS OF AUDIO-VIDEO COMMUNICATION  
17 IS THE INDIVIDUAL THAT HE OR SHE PURPORTS TO BE.

18 (b) A NOTARY PUBLIC HAS SATISFACTORY EVIDENCE OF IDENTITY  
19 IF THE NOTARY PUBLIC CAN IDENTIFY THE INDIVIDUAL WHO PERSONALLY  
20 APPEARS BEFORE THE NOTARY PUBLIC BY MEANS OF AUDIO-VIDEO  
21 COMMUNICATION BY USING AT LEAST ONE OF THE FOLLOWING METHODS:

22 (I) THE OATH OR AFFIRMATION OF A CREDIBLE WITNESS WHO  
23 PERSONALLY KNOWS THE INDIVIDUAL, IS PERSONALLY KNOWN TO THE  
24 NOTARY PUBLIC, AND IS IN THE PHYSICAL PRESENCE OF THE NOTARY  
25 PUBLIC OR THE INDIVIDUAL DURING THE REMOTE NOTARIZATION;

26 (II) REMOTE PRESENTATION AND CREDENTIAL ANALYSIS OF A  
27 GOVERNMENT-ISSUED IDENTIFICATION CREDENTIAL THAT CONTAINS THE

1 SIGNATURE AND A PHOTOGRAPH OF THE PERSON AND THE DATA  
2 CONTAINED ON THE CREDENTIAL, AND AT LEAST ONE OF THE FOLLOWING:

3 (A) A DYNAMIC, KNOWLEDGE-BASED AUTHENTICATION  
4 ASSESSMENT BY A TRUSTED THIRD PARTY THAT COMPLIES WITH RULES  
5 ADOPTED BY THE SECRETARY OF STATE;

6 (B) A VALID PUBLIC KEY CERTIFICATE THAT COMPLIES WITH RULES  
7 ADOPTED BY THE SECRETARY OF STATE; OR

8 (C) AN IDENTITY VERIFICATION BY A TRUSTED THIRD PARTY THAT  
9 COMPLIES WITH RULES ADOPTED BY THE SECRETARY OF STATE; OR

10 ==

11 (III) ANY OTHER METHOD THAT COMPLIES WITH RULES ADOPTED  
12 BY THE SECRETARY OF STATE.

13 (7) WITHOUT LIMITING THE AUTHORITY OF A NOTARY PUBLIC  
14 UNDER SECTION 24-21-508 TO REFUSE TO PERFORM A NOTARIAL ACT, A  
15 NOTARY PUBLIC MAY REFUSE TO PERFORM A NOTARIAL ACT UNDER THIS  
16 SECTION IF THE NOTARY PUBLIC IS NOT SATISFIED THAT THE  
17 REQUIREMENTS OF THIS SECTION ARE MET.

18 (8) THE CERTIFICATE OF NOTARIAL ACT FOR A REMOTE  
19 NOTARIZATION MUST, IN ADDITION TO COMPLYING WITH THE  
20 REQUIREMENTS OF SECTION 24-21-515, INDICATE THAT THE NOTARIAL ACT  
21 WAS PERFORMED USING AUDIO-VIDEO COMMUNICATION TECHNOLOGY.

22 (9) THE FOLLOWING SHORT-FORM CERTIFICATES OF REMOTE  
23 NOTARIZATIONS ARE SUFFICIENT FOR THE PURPOSES INDICATED, IF  
24 COMPLETED WITH THE INFORMATION REQUIRED BY SECTION 24-21-515 (1)  
25 AND (2) AND SUBSECTION (8) OF THIS SECTION:

26 (a) FOR A VERIFICATION ON OATH OR AFFIRMATION BY AN  
27 INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF AUDIO-VIDEO



1 COMMUNICATION TECHNOLOGY:  
2 STATE OF \_\_\_\_\_  
3 COUNTY OF \_\_\_\_\_  
4 SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME BY USE  
5 OF AUDIO-VIDEO COMMUNICATION TECHNOLOGY ON  
6  (DATE)  BY  (NAME(S) OF INDIVIDUAL(S)) , WHO  
7 DECLARED THAT (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN  
8  (LOCATION OF INDIVIDUAL)  [AND THAT THIS RECORD IS  
9 PART OF OR PERTAINS TO A MATTER THAT IS TO BE FILED  
10 WITH OR IS BEFORE A COURT, GOVERNMENTAL ENTITY, OR  
11 OTHER ENTITY LOCATED IN THE UNITED STATES OR  
12 INVOLVES PROPERTY LOCATED IN, OR A TRANSACTION  
13 SUBSTANTIALLY CONNECTED WITH, THE UNITED STATES].

14 \_\_\_\_\_

15 SIGNATURE OF NOTARIAL OFFICER

16 STAMP

17  (TITLE OF OFFICE)

18 MY COMMISSION EXPIRES: \_\_\_\_\_

19 (b) FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY BY AN  
20 INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF AUDIO-VIDEO  
21 COMMUNICATION TECHNOLOGY:

22 STATE OF \_\_\_\_\_  
23 COUNTY OF \_\_\_\_\_  
24 THIS RECORD WAS ACKNOWLEDGED BEFORE ME BY USE OF  
25 AUDIO-VIDEO COMMUNICATION TECHNOLOGY ON  (DATE)   
26 BY  (NAME(S) OF INDIVIDUAL(S)) , WHO DECLARED THAT  
27 (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN  (LOCATION OF

1           INDIVIDUAL) [AND THAT THIS RECORD IS PART OF OR  
 2           PERTAINS TO A MATTER THAT IS TO BE FILED WITH OR IS  
 3           BEFORE A COURT, GOVERNMENTAL ENTITY, OR OTHER  
 4           ENTITY LOCATED IN THE UNITED STATES OR INVOLVES  
 5           PROPERTY LOCATED IN, OR A TRANSACTION SUBSTANTIALLY  
 6           CONNECTED WITH, THE UNITED STATES].

7           \_\_\_\_\_

8           SIGNATURE OF NOTARIAL OFFICER

9           ( \_\_\_\_\_ (TITLE OF OFFICE) \_\_\_\_\_ )

10           MY COMMISSION EXPIRES: \_\_\_\_\_

11           (c) FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY  
 12           BY AN INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF  
 13           AUDIO-VIDEO COMMUNICATION TECHNOLOGY:

14           STATE OF \_\_\_\_\_

15           COUNTY OF \_\_\_\_\_

16           THIS RECORD WAS ACKNOWLEDGED BEFORE ME BY USE OF  
 17           AUDIO-VIDEO COMMUNICATION TECHNOLOGY ON (DATE)  
 18           BY (NAME(S) OF INDIVIDUAL(S)) AS (TYPE OF AUTHORITY,  
 19           SUCH AS OFFICER OR TRUSTEE) OF (NAME OF PARTY ON  
 20           BEHALF OF WHOM RECORD WAS EXECUTED), WHO  
 21           DECLARED THAT (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN  
 22           (LOCATION OF INDIVIDUAL) [AND THAT THIS RECORD IS  
 23           PART OF OR PERTAINS TO A MATTER THAT IS TO BE FILED  
 24           WITH OR IS BEFORE A COURT, GOVERNMENTAL ENTITY, OR  
 25           OTHER ENTITY LOCATED IN THE UNITED STATES, OR  
 26           INVOLVES PROPERTY LOCATED IN, OR A TRANSACTION  
 27           SUBSTANTIALLY CONNECTED WITH, THE UNITED STATES].

1 \_\_\_\_\_

2 SIGNATURE OF NOTARIAL OFFICER

3 STAMP

4 ( \_\_\_\_\_ (TITLE OF OFFICE) \_\_\_\_\_ )

5 MY COMMISSION EXPIRES: \_\_\_\_\_

6 (d) FOR WITNESSING OR ATTESTING A SIGNATURE BY AN  
7 INDIVIDUAL MAKING A PERSONAL APPEARANCE BY USE OF AUDIO-VIDEO  
8 COMMUNICATION TECHNOLOGY:

9 STATE OF \_\_\_\_\_

10 COUNTY OF \_\_\_\_\_

11 SIGNED OR ATTESTED BEFORE ME BY USE OF AUDIO-VIDEO  
12 COMMUNICATION TECHNOLOGY ON (DATE) BY (NAME(S)  
13 OF INDIVIDUAL(S)), WHO DECLARED THAT  
14 (HE)(SHE)(THEY) (IS)(ARE) LOCATED IN (LOCATION OF  
15 INDIVIDUAL) [AND THAT THIS RECORD IS PART OF OR  
16 PERTAINS TO A MATTER THAT IS TO BE FILED WITH OR IS  
17 BEFORE A COURT, A GOVERNMENTAL ENTITY, OR OTHER  
18 ENTITY LOCATED IN THE UNITED STATES, OR INVOLVES  
19 PROPERTY LOCATED IN, OR A TRANSACTION SUBSTANTIALLY  
20 CONNECTED WITH, THE UNITED STATES].

21 \_\_\_\_\_

22 SIGNATURE OF NOTARIAL OFFICER

23 STAMP

24 ( \_\_\_\_\_ (TITLE OF OFFICE) \_\_\_\_\_ )

25 MY COMMISSION EXPIRES: \_\_\_\_\_

26 (10) (a) (I) A NOTARY PUBLIC SHALL CREATE AN AUDIO-VIDEO  
27 RECORDING OF THE PERFORMANCE OF THE REMOTE NOTARIZATION. A

1 NOTARY PUBLIC, OR A GUARDIAN, CONSERVATOR, OR PERSONAL  
2 REPRESENTATIVE OF AN INCAPACITATED OR DECEASED NOTARY PUBLIC,  
3 SHALL RETAIN THE AUDIO-VIDEO RECORDING OF THE PERFORMANCE OF  
4 THE REMOTE NOTARIZATION FOR AT LEAST TEN YEARS IN ACCORDANCE  
5 WITH RULES ADOPTED BY THE SECRETARY OF STATE; EXCEPT THAT  
6 INSTEAD OF RETAINING THE RECORDING AS REQUIRED BY THIS SUBSECTION  
7 (10)(a)(I), THE RECORDING MAY BE HELD BY A REPOSITORY DESIGNATED  
8 BY OR ON BEHALF OF THE NOTARY PUBLIC.

9 (II) THE NOTARY PUBLIC MUST, AT THE OUTSET OF THE NOTARIAL  
10 SESSION, DISCLOSE TO THE INDIVIDUAL THAT THE NOTARIAL SESSION WILL  
11 BE RECORDED AND OBTAIN THE INDIVIDUAL'S CONSENT TO PROCEED.

12 (III) THE RECORDING MUST BE STORED AND SECURED IN  
13 COMPLIANCE WITH RULES ADOPTED BY THE SECRETARY OF STATE.

14 (b) THE AUDIO-VIDEO RECORDING REQUIRED BY THIS SECTION  
15 MUST BE IN ADDITION TO THE JOURNAL ENTRY FOR THE NOTARIAL ACT  
16 REQUIRED BY SECTION 24-21-519 AND MUST INCLUDE:

17 (I) AT THE COMMENCEMENT OF THE RECORDING, A RECITATION BY  
18 THE NOTARY PUBLIC OF INFORMATION SUFFICIENT TO IDENTIFY THE  
19 NOTARIAL ACT;

20 (II) A DECLARATION BY THE INDIVIDUAL THAT THE INDIVIDUAL'S  
21 SIGNATURE ON THE RECORD IS KNOWINGLY AND VOLUNTARILY MADE;

22 (III) ALL ACTIONS AND SPOKEN WORDS OF THE INDIVIDUAL, THE  
23 NOTARY PUBLIC, AND ANY REQUIRED WITNESS DURING THE ENTIRE  
24 NOTARIAL ACT;

25 (IV) IF THE INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS BEING  
26 PERFORMED IS IDENTIFIED BY PERSONAL KNOWLEDGE, AN EXPLANATION  
27 BY THE NOTARY PUBLIC AS TO HOW HE OR SHE KNOWS THE INDIVIDUAL

1 AND HOW LONG HE OR SHE HAS KNOWN THE INDIVIDUAL;

2 (V) IF THE INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS BEING  
3 PERFORMED IS IDENTIFIED BY A CREDIBLE WITNESS:

4 (A) A STATEMENT BY THE NOTARY PUBLIC AS TO HOW THE  
5 NOTARY PUBLIC KNOWS THE CREDIBLE WITNESS AND HOW LONG HE OR SHE  
6 HAS KNOWN THE CREDIBLE WITNESS; AND

7 (B) AN EXPLANATION BY THE CREDIBLE WITNESS AS TO HOW HE OR  
8 SHE KNOWS THE INDIVIDUAL AND HOW LONG HE OR SHE HAS KNOWN THE  
9 INDIVIDUAL; AND

10 (VI) IF THE INDIVIDUAL HAS SO REQUESTED, AN ACCURATE AND  
11 COMPLETE IMAGE OF THE ENTIRE RECORD THAT WAS VIEWED AND SIGNED  
12 BY THE INDIVIDUAL AND NOTARY PUBLIC.

13 (c) THE PROVISIONS OF SECTION 24-21-519, RELATED  
14 RESPECTIVELY TO SECURITY, INSPECTION, COPYING, AND RETENTION AND  
15 DISPOSITION OF A NOTARY PUBLIC'S JOURNAL, APPLY TO SECURITY,  
16 INSPECTION, COPYING, AND RETENTION AND DISPOSITION OF AUDIO-VIDEO  
17 RECORDINGS REQUIRED BY THIS SECTION.

18 (11) REGARDLESS OF THE PHYSICAL LOCATION OF THE INDIVIDUAL  
19 AT THE TIME OF THE NOTARIAL ACT, THE VALIDITY OF A REMOTE  
20 NOTARIZATION PERFORMED BY A NOTARY IN THIS STATE IS GOVERNED BY  
21 THE LAWS OF THIS STATE, INCLUDING ANY RULES ADOPTED BY THE  
22 SECRETARY OF STATE PURSUANT TO THIS PART 5.

23 **SECTION 4. In Colorado Revised Statutes, 24-21-515, amend**  
24 **as it will become effective July 1, 2018, (4) as follows:**

25 **24-21-515. Certificate of notarial act. (4) By executing a**  
26 **certificate of a notarial act, a notarial officer certifies that the officer has**  
27 **complied with the requirements and made the determinations specified in**

1 sections 24-21-504, 24-21-505, and 24-21-506 AND, IF APPLICABLE,  
2 SECTION 24-21-514.5.

3 **SECTION 5.** In Colorado Revised Statutes, 24-21-519, **amend**  
4 **as it will become effective July 1, 2018,** (2) as follows:

5 **24-21-519. Journal.** (2) (a) A journal may be created on a  
6 tangible medium or in an electronic format. If a journal is maintained on  
7 a tangible medium, it must be a permanent, bound register with numbered  
8 pages. If a journal is maintained in an electronic format, it must be in a  
9 permanent, tamper-evident electronic format complying with the rules of  
10 the secretary of state.

11 (b) A NOTARY PUBLIC THAT PERFORMS A REMOTE NOTARIZATION  
12 SHALL MAINTAIN A JOURNAL IN AN ELECTRONIC FORMAT WITH REGARD TO  
13 EACH REMOTE NOTARIZATION. THE JOURNAL MUST INCLUDE THE  
14 ELECTRONIC SIGNATURE OF THE INDIVIDUAL FOR EACH REMOTE  
15 NOTARIZATION.

16 **SECTION 6.** In Colorado Revised Statutes, 24-21-525 **as it will**  
17 **become effective July 1, 2018, add** (8) as follows:

18 **24-21-525. Prohibited acts.** (8) A PERSON SHALL NOT SELL,  
19 OFFER FOR SALE, OR USE ANY INFORMATION COLLECTED IN THE COURSE OF  
20 PERFORMING A REMOTE NOTARIZATION FOR ANY PURPOSE OTHER THAN:

21 (a) COMPLETING THE NOTARIAL ACT OR RELATED ACTIVITIES;

22 (b) COMPLYING WITH APPLICABLE LAW;

23 (c) AS PERMITTED BY APPLICABLE FEDERAL OR STATE LAW; OR

24 (d) IN ACCORDANCE WITH CONSENT OBTAINED, IN THE MANNER  
25 REQUIRED BY APPLICABLE LAW, FROM THE PERSON TO WHOM SUCH  
26 INFORMATION RELATES.

27 **SECTION 7.** In Colorado Revised Statutes, 24-21-527 **as it will**

1     **become effective July 1, 2018, amend (1)(e); and add (1)(g) and (1)(h)**  
2 as follows:

3             **24-21-527. Rules.** (1) The secretary of state may adopt rules to  
4 implement this part 5 in accordance with article 4 of this title 24. Rules  
5 adopted regarding the performance of notarial acts with respect to  
6 electronic records may not require, or accord greater legal status or effect  
7 to, the implementation or application of a specific technology or technical  
8 specification. The rules may:

9             (e) Include provisions to prevent fraud or mistake in the  
10 performance of notarial acts; ~~and~~

11             (g) PRESCRIBE THE MANNER OF PERFORMING NOTARIAL ACTS  
12 USING AUDIO-VIDEO COMMUNICATION, INCLUDING PROVISIONS TO ENSURE  
13 THE SECURITY AND INTEGRITY OF THOSE ACTS; AND

14             (h) PRESCRIBE REQUIREMENTS FOR THE APPROVAL AND USE OF  
15 REMOTE NOTARIZATION SYSTEMS.

16             **SECTION 8. Act subject to petition - effective date -**  
17 **applicability.** (1) This act takes effect January 1, 2019; except that, if a  
18 referendum petition is filed pursuant to section 1 (3) of article V of the  
19 state constitution against this act or an item, section, or part of this act  
20 within the ninety-day period after final adjournment of the general  
21 assembly, then the act, item, section, or part will not take effect unless  
22 approved by the people at the general election to be held in November  
23 2018 and, in such case, will take effect on January 1, 2019, or on the date  
24 of the official declaration of the vote thereon by the governor, whichever  
25 is later.

26             (2) This act applies to conduct occurring on or after the applicable  
27 effective date of this act.